

STATE OF NORTH CAROLINA

File No.

NEW HANOVER County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff

Bobby E. Owens, Jr. & Precise Building & Grounds Maint. Corp.

Address

901 Sheffield Drive

City, State, Zip

Wilmington, NC 28411-7062

VERSUS

Name Of Defendant(s)

Woodruff Insurance Agency, Inc. &
State Farm Mutual Automobile Insurance Company

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Woodruff Insurance Agency, Inc.

2805 Market Street

Wilmington

NC

28403

Name And Address Of Defendant 2

State Farm Mutual Automobile Insurance Company
c/o North Carolina Insurance Commissioner

1201 Mail Service Center

Raleigh

NC

27699-1201

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

H. Mitchell Baker, III &

David B. Collins, Jr.

5725-F2 Oleander Drive

Wilmington

NC

28403

Date Issued

8-18-17

Time

11:07

☐ AM☒ PM

Signature

Jeresa Carson

☐ Deputy CSC☒ Assistant CSC☐ Clerk Of Superior Court

Also enclosed are Plaintiffs First Set of Interrogatories and Request for Production of Documents.

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM☐ PM

Signature

☐ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

EXHIBIT

tabbies

1

(Over)

17 09 01 120

NORTH CAROLINA

NEW HANOVER COUNTY

BOBBY EDWARD OWENS, JR.,

AND

PRECISE BUILDING & GROUNDS

MAINTENANCE CORP.

Plaintiffs,

vs.

WOODRUFF INSURANCE

AGENCY, INC.

AND

STATE FARM MUTUAL

AUTOMOBILE INSURANCE COMPANY

Defendants.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

FILE #:

2017 DEC 18 P 1:08

NEW HANOVER COUNTY, C.S.C.

COMPLAINT

Plaintiffs, complaining of Defendants, allege the following:

1. Plaintiff Bobby Edwards Owens, Jr, (hereinafter Owens) is a resident of New Hanover County, North Carolina.
2. Plaintiff Precise Building & Grounds Maintenance Corp. is a corporation (hereinafter Precise) organized under the laws of North Carolina with its principle place of business in New Hanover County, North Carolina.
3. That Defendant Woodruff Insurance Agency, Inc. (hereinafter Woodruff), is a corporation organized under the laws of North Carolina with its principle place of business at 2805 Market Street, Wilmington, NC 28403, in New Hanover County, North Carolina.
4. That Defendant State Farm Mutual Automobile Insurance Company (hereinafter State Farm) is duly licensed and doing business in North Carolina.
5. That on November 2, 2007, Owens and Precise purchased a 2007 Ford F-150 Truck (hereinafter the Truck), and a copy of the Certificate of Title is attached hereto and is labeled "Exhibit A."

A TRUE COPY
CLERK OF SUPERIOR COURT
NEW HANOVER COUNTY
BY: Teresa F. Calson
Asst. Clerk of Superior Court

6. Upon information and belief, when the Truck was purchased, it was insured by State Farm under the name Bobby Owens d/b/a Plaintiff Precise Building & Grounds Maintenance, with an insurance policy number 067 1496-E18-33H (and other policy numbers as may have been used before or after this policy number was used) (hereinafter the Policy).
7. Upon information and belief, in May 2012, Woodruff, or State Farm, or both, changed the named insured by removing Owens as a named insured on the Policy.
8. That the removal of Owens as a named insured on the Policy was done without the consent of Owens, or Precise.
9. That any alleged instruction from Owens or Precise to remove Owens as a named insured from the Policy would have been a mutual mistake or a unilateral mistake by Woodruff, or State Farm, or both.
10. That at all times alleged herein, Owens as an owner of the Truck had an insurable interest, and in equity and law, should be a named insured on the Policy issued by State Farm.
11. That the Court, as a matter of equity, and as a matter of law, is empowered to reform the Policy issued by State Farm on the Truck to restore Owens as a named insured.
12. That it was the intent of Owens, Precise, Woodruff, and State Farm to name the correct owners of the Truck which would include Owens as a named insured on the Policy, as had been the case until the mistake occurred.

WHEREFORE, Plaintiffs pray the Court as follows:

- a. That the insurance contract be reformed under the equitable and legal powers of the Court to restore Owens as a named insured on the Policy;
- b. That the reformation of the Policy restoring Owens as a named insured be retroactively effective as of the time his name was removed as a named insured;
- c. That defendants be taxed with the cost of this action;

d. That plaintiffs recover such other relief as the Court deems just and proper.

BAKER LAW FIRM, PLLC

By: H. M. Baker III

H. Mitchell Baker, III
NC State Bar No. 6990
Oleander Oaks
5725-F2 Oleander Drive
Wilmington, NC 28403
Telephone: (910) 793-9000
Facsimile: (910) 793-9400
mbaker@bakerlawfirmpllc.com
Attorneys for Plaintiffs

DAVID B. COLLINS, JR., P.C.

By: dcj

David B. Collins, Jr.
NC State Bar No. 19884
Oleander Oaks
5725-F2 Oleander Drive
Wilmington, NC 28403
Telephone: (910) 793-9000
Facsimile: (910) 793-9400
dcollins@attydc.com
Attorneys for Plaintiffs

STATE OF NORTH CAROLINA

MVR 191 (Rev 05/07)

CERTIFICATE OF TITLE

VEHICLE IDENTIFICATION NUMBER

1FTRX12W67FB86760

TITLE NUMBER

777513073184150

YEAR/MODEL

2007

MAKE

FORD

BODY STYLE

TK

TITLE ISSUE DATE

11/20/2007

PREVIOUS TITLE NUMBER

MAIL TO

BANK OF AMERICA
PO BOX 2759
JACKSONVILLE FL 32203-2759

ODOMETER READING

00010

ODOMETER STATUS

TITLE BRANDS

OWNER(S) NAME AND ADDRESS

PRECISE BUILDING AND GROUNDS MAINT CORP
BOBBY EDWARD OWENS JR
901 SHEFFIELD DR
WILMINGTON NC 28411-7062

SHIPPING WEIGHT

4831



The Commissioner of Motor Vehicles of the State of North Carolina hereby certifies that an application for a certificate of title for the herein described vehicle has been filed pursuant to the General Statutes of North Carolina and based on that application, the Division of Motor Vehicles is satisfied that the applicant is the lawful owner. Official records of the Division of Motor Vehicles reflect vehicle is subject to the liens, if any, herein enumerated at the date of issuance of this certificate.

As WITNESS, his hand and seal of this Division of the day and year appearing in this certificate as the title issue date.

COMMISSIONER OF MOTOR VEHICLES

FIRST LIENHOLDER:

DATE OF LIEN 10/29/2007

BANK OF AMERICA
PO BOX 2759
JACKSONVILLE FL 32203-2759

LIEN RELEASED BY

SIGNATURE

TITLE

DATE 3/4/14

SECOND LIENHOLDER:

DATE OF LIEN

LIEN RELEASED BY

SIGNATURE

TITLE

DATE

THIRD LIENHOLDER:

DATE OF LIEN

LIEN RELEASED BY

SIGNATURE

TITLE

DATE

FOURTH LIENHOLDER:

DATE OF LIEN

LIEN RELEASED BY

SIGNATURE

TITLE

DATE

ADDITIONAL LIENS:

76770482

150 TIC1505

ANY ALTERATIONS OR ERASURES VOID TITLE

NORTH CAROLINA

NEW HANOVER COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE No.: 17 CVS 3190

BOBBY EDWARD OWENS, JR.,)
AND)
PRECISE BUILDING & GROUNDS)
MAINTENANCE CORP.,)
Plaintiffs,)
v.)
WOODRUFF INSURANCE)
AGENCY, INC.)
AND)
STATE FARM MUTUAL)
AUTOMOBILE INSURANCE COMPANY)
Defendants.)

PLAINTIFFS' FIRST SET OF
INTERROGATORIES AND FIRST
REQUEST FOR PRODUCTION OF
DOCUMENTS TO DEFENDANTS

Pursuant to Rule 33 of the North Carolina Rules of Civil Procedure, Plaintiffs serve the following interrogatories upon Defendants:

1. State the full name, and business address, of all persons and entities who, or which, were involved in the original application for an insurance policy (hereinafter the Policy), and the issuance thereof, for the 2007 Ford F-150 Truck, VIN # 1FTRX12W67FB86760 owned by Bobby Edward Owens, Jr., and Precise Building & Grounds Maintenance Corp.;

2. State the full name, and business address, of all persons and entities who, or which, were involved in the removal of Bobby Edward Owens, Jr., as a named insured, from the Policy for the 2007 Ford F-150 Truck, VIN No.: 1FTRX12W67FB86760 owned by Bobby Edward Owens, Jr., and Precise Building & Grounds Maintenance Corp.;

3. State the full name, and business address, of all persons who are now in possession of any documents or other tangible things related to the removal of Bobby Edward Owens, Jr., as a named insured, from the Policy for the 2007 Ford F-150 Truck, VIN # 1FTRX12W67FB86760 owned by Bobby Edward Owens, Jr., and Precise Building & Grounds Maintenance Corp.

REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the North Carolina Rules of Civil Procedure, Plaintiffs request Defendants to produce and permit Plaintiffs, or someone acting on their behalf, to inspect and copy the following documents on October 16, 2017, at 10 a.m. at the office of Collins Law Firm, Oleander Oaks, 5725-F2 Oleander Drive, Wilmington, NC 28403. In lieu of producing for inspection and copying, copies may be sent for delivery prior to the aforesaid date to the aforesaid address.

1. All documents or tangible things related to the original application for the Policy, and the issuance thereof, for the 2007 Ford F-150 Truck, VIN # 1FTRX12W67FB86760 owned by Bobby Edward Owens, Jr., and Precise Building & Grounds Maintenance Corp.;
2. All documents or tangible things related to removal of Bobby Edward Owens, Jr. from the Policy for the 2007 Ford F-150 Truck, VIN # 1FTRX12W67FB86760 owned by Bobby Edward Owens, Jr., and Precise Building & Grounds Maintenance Corp.;
3. The entire policy including all endorsements in effect for the 2007 Ford F-150 Truck, VIN # 1FTRX12W67FB86760 owned by Bobby Edward Owens, Jr., and Precise Building & Grounds Maintenance Corp. on the date of the accident on or about January 9, 2017.

BAKER LAW FIRM, PLLC

By: H. Mitchell Baker, III
H. Mitchell Baker, III
NC State Bar No. 6990
Oleander Oaks
5725-F2 Oleander Drive
Wilmington, NC 28403
Telephone: (910) 793-9000
Facsimile: (910) 793-9400
mbaker@bakerlawfirmpllc.com
Attorneys for Plaintiffs

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dcollins@attydc.com
Attorneys for Plaintiffs